

**KENTUCKY HORSE RACING COMMISSION**  
**MINUTES OF THE MEETING**

Date: June 16, 2020 at 1:30 PM

Place: Via video conference from Kentucky Horse Racing Commission, Conference Room, 4063 Iron Works Parkway, Building B, Kentucky Horse Park, Lexington, Kentucky

Members Present: Chairman Jon Rabinowitz; Vice-Chairman Frank Jones, Jr.; Commissioner J. Gatewood Bell, Jr.; Commissioner Stuart E. Brown, II, DVM; Commissioner Kerry T. Cauthen; Commissioner Naveed Chowhan, M.D.; Commissioner Douglas A. Hendrickson; Commissioner Lesley Ann May Howard; Commissioner Kenneth A. Jackson; Commissioner Franklin S. Kling, Jr.; Commissioner Alan J. Leavitt; Commissioner Foster Northrop, DVM; Commissioner Charles O'Connor; Commissioner Mark Simendinger; and Commissioner James Edwin Worley

Ex-officio Members Present: Secretary Kerry B. Harvey, Public Protection Cabinet

KHRC Staff Participating/Present: Marc A. Guilfoil, Executive Director; Jamie Eads, Deputy Executive Director and Director of Division of Incentives and Development; Jennifer Wolsing, General Counsel; Chad Thompson, Deputy General Counsel; Bruce Howard, DVM, Equine Medical Director; Nicholas Smith, Chief Racing Veterinarian; and Barbara Borden, Chief State Steward

Others Participating: None.

<b>AGENDA ITEM</b>	<b>TRANSCRIPT PAGE NUMBER(S)</b>	<b>DISCUSSION / CONCLUSIONS / RECOMMENDATIONS</b>	<b>ACTION TAKEN</b>
<b>I. Call to Order and Roll Call</b>	4 – 6	Chairman Rabinowitz called the meeting of the Kentucky Horse Racing Commission (KHRC) to order and performed the roll call. A quorum was recognized.  Chairman Rabinowitz also acknowledged the outstanding work by General Counsel Jennifer Wolsing and Deputy General Counsel Chad Thompson for their oral argument presentation before the Sixth Circuit and welcomed Mr. Thompson to the KHRC staff. Additionally, he announced other personnel appointments congratulating Dr. Howard's appointment as Equine Medical Director, Dr. Smith's appointment as Chief Racing Veterinarian, and Commissioners	No action taken.

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		Chowhan, Worley, and Leavitt's appointments as commission members.	
<b>II. New Business</b> <b>Tab 1 Keeneland KTDF Allotment Request for July Meet</b>	5 – 61 6 – 8	<p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation submitted by the Kentucky Thoroughbred Development Fund advisory committee (KTDF) to approve the proposed KTDF purses and proposed KTDF purse structure for Keeneland Association's July 2020 meet, and approve the proposed transfer of \$125,000 in KTDF money from Keeneland Association to Ellis Park. Motion by Commissioner Simendinger. Second by Commissioner Hendrickson.</p> <p>Ms. Eads presented Keeneland's request dated June 1, 2020 as outlined in the agenda materials. At its June 3, 2020 meeting, the KTDF advisory committee approved recommendation of Keeneland's request.</p> <p>Approval of the KTDF advisory committee's recommendation was recommended by KHRC staff.</p>	Chairman Rabinowitz called for a vote to approve the KTDF advisory committee's recommendation as presented. Motion carried with no abstentions or objections.
<b>Tab 2 Ellis Park KTDF Allotment Request for Summer Meet</b>	8 – 10	<p>Chairman Rabinowitz requested a motion for the Commission to address the recommendation of the KTDF advisory committee to approve the proposed KTDF purses and the proposed KTDF purse structure for Ellis Park's summer 2020 meet. Motion by Vice-Chairman Jones. Second by Commissioner O'Connor.</p> <p>Ms. Eads presented Ellis Park's request dated June 2, 2020 as outlined in the agenda materials. At its June 3, 2020 meeting, the KTDF advisory committee approved recommendation of Ellis Park's request.</p>	Chairman Rabinowitz called for a vote to approve the KTDF advisory committee's recommendation as presented. Motion carried with no objections or abstentions.

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		Approval of the KTDF Advisory Committee's recommendation was recommended by KHRC staff.	
<b>Tab 3 Kentucky Downs' KTDF Allotment Request for September Meet</b>	10 – 12	<p>Chairman Rabinowitz requested a motion for the Commission to address the recommendation submitted by the KTDF advisory committee to approve the proposed KTDF purses and the proposed KTDF purse structure for Kentucky Downs' September 2020 meet, and further to approve the proposed KTDF advertising expenditure of up to \$75,000. Motion by Vice-Chairman Jones. Second by Commissioner O'Connor.</p> <p>Ms. Eads presented Kentucky Downs' request dated June 4, 2020 as outlined in the agenda materials. At its June 3, 2020 meeting, the KTDF advisory committee approved recommendation of Kentucky Downs' request.</p> <p>Approval of the KTDF advisory committee's recommendation was recommended by KHRC staff.</p>	Chairman Rabinowitz called for a vote to approve the KTDF advisory committee's recommendation request as presented. Motion carried with no objections or abstentions.
<b>N/A</b>	12	Before moving to the next agenda item, Chairman Rabinowitz commended and thanked Mr. Bill Landes and the entire KTDF advisory committee for their leadership.	No action taken. Informational item only.
<b>Tab 4 Churchill Downs' Request to Amend Section R of Racing Application</b>	12 – 16	Chairman Rabinowitz requested a motion from the Commission to address the recommendation submitted by the KHRC Race Dates Committee (Race Dates Committee) to approve the proposed amendment to Section R of both Churchill Downs Racetrack LLC's and Ellis Entertainment LLC's 2020 application for a license to conduct live horse racing, simulcasting, and pari-mutuel wagering. Motion by Vice-Chairman Jones. Second by Commissioner Northrop.	Chairman Rabinowitz called for a vote to approve the Race Dates Committee's recommendation as presented. Motion carried with no objections or abstentions.

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		<p>Ms. Wolsing presented Churchill Downs Racetrack LLC's and Ellis Entertainment LLC's request dated March 17, 2020 as outlined in the agenda materials. At its April 21, 2020 meeting, the Race Dates Committee recommended approval of Churchill Downs Racetrack LLC's and Ellis Entertainment LLC's requests.</p> <p>Approval of the Race Dates Committee's recommendation was recommended by KHRC staff.</p>	
<p><b>Tab 5 Keeneland's Request to Amend Section R of Racing Application</b></p>	<p>16 – 18</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation submitted by the Race Dates Committee to amend Section R of both the Keeneland Association, Inc.'s and Ellis Entertainment LLC's 2020 application for license to conduct live horse racing, simulcasting and pari-mutuel wagering. Motion by Vice-Chairman Jones. Second by Commissioner Bell.</p> <p>Ms. Wolsing presented the requests from Keeneland Association Inc. dated May 22, 2020 and Ellis Entertainment LLC dated May 26, 2020 as outlined in the agenda materials. At its May 27, 2020 meeting, the Race Dates Committee recommended approval of Keeneland Association Inc.'s and Ellis Entertainment LLC's requests.</p> <p>Approval of the Race Dates Committee's recommendation was recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the Race Dates Committee's recommendation as presented. Motion carried with no objections or abstentions.</p>
<p><b>Tab 6 Proposed Amendment to 810 KAR 3:020, 810 KAR 4:040 and 810 KAR 8:030</b></p>	<p>18 – 26 18 – 23</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the joint recommendation of the KHRC Rules Committee (Rules Committee) and the KHRC Safety and Welfare Committee (Safety and Welfare Committee) to amend 810 KAR 4:040 and 810 KAR 8:030. Motion by Commissioner Simendinger. Second by Commissioner Hendrickson.</p>	<p>Chairman Rabinowitz called for a vote to approve the joint recommendation of the Rules Committee and Safety and Welfare Committee to approve</p>

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	23 – 26	<p>Ms. Wolsing presented the proposed amendments to 810 KAR 4:040 and 810 KAR 8:030 as outlined in the agenda materials. At its June 15, 2020 joint meeting, the Race Dates Committee and the Safety and Welfare Committee approved recommendation of the proposed amendments.</p> <p>Approval of the Race Dates Committee and Safety and Welfare Committee’s joint recommendation was recommended by KHRC staff.</p> <p>Chairman Rabinowitz requested a motion from the Commission to address the recommendation of the Rules Committee to amend 810 KAR 3:020. Motion by Vice-Chairman Jones. Second by Commissioner Brown.</p> <p>Ms. Wolsing presented the proposed amendments to 810 KAR 3:020 as outlined in the agenda materials. At its June 15, 2020 meeting, the Race Dates Committee approved recommendation of the proposed amendments.</p> <p>Approval of the Race Dates Committee’s recommendation was recommended by KHRC staff.</p>	<p>the proposed amendments to 810 KAR 4:040 and 810 KAR 8:030 as presented. Motion carried with no objections or abstentions.</p> <p>Chairman Rabinowitz called for a vote to approve the recommendation of the Rules Committee to approve the proposed amendments to 810 KAR 3:020 as presented. Motion carried with no objections and one abstention by Commissioner Chowhan.</p>
<p><b>Tab 7 WKY Development’s Request for Historical Horse Racing at Oak Grove Racing and Gaming</b></p>	26 – 28	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by WKY Development LLC d/b/a Oak Grove Racing, Gaming and Hotel to approve offering historical horse racing at the Oak Grove facility, contingent upon the Commission receiving a memorandum satisfying 811 KAR Chapter 1, Sub-chapter 250, Section 6, Sub-section 2. Motion by Vice-Chairman Jones. Second by Commissioner Jackson.</p>	<p>Chairman Rabinowitz called for a vote to approve the request as presented and contingent upon the Commission receiving a memorandum satisfying 811 KAR 1:250(6)(2). Motion carried with no</p>

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		<p>Ms. Wolsing presented the request from WKY Development LLC d/b/a Oak Grove Racing, Gaming and Hotel dated May 29, 2020 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>objections or abstentions.</p>
<p><b>Tab 8 Derby City's Request to Approve Additional Scientific Game Corporation Historical Horse Racing Pools and Entertaining Game Themes</b></p>	<p>28 – 31</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by Churchill Downs Racetrack LLC, by and through its wholly owned subsidiary Derby City Gaming LLC to approve offering 30 new International Game Technology entertaining game themes, 29 historical horse racing pari-mutuel wagering pools, and Ascent Foundation HHR software used on International Game Technology terminals. Motion by Commissioner Kling. Second by Commissioner Cauthen.</p> <p>Commissioner Kling presented the requests by Derby City Gaming dated May 29, 2020 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>
<p><b>Tab 9 Derby City's Request to Approve Additional Scientific Game Corporation Historical Horse Racing Pools and Entertaining Game Themes</b></p>	<p>31 – 34</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by Churchill Downs Racetrack LLC, by and through its wholly owned subsidiary, Derby City Gaming LLC, to approve one new Scientific Games Corporation historical horse racing pari-mutuel wagering pool, 15 new associated entertaining game themes, and 5 additional pool configuration options. Motion by Commissioner Simendinger. Second by Commissioner O'Connor.</p> <p>Commissioner Kling presented the request by Derby City Gaming dated May 29, 2020 as outlined in the agenda materials.</p> <p>Approval is recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>

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<p><b>Tab 10 Derby City's Request to Approve Additional Ainsworth Game Technology Historical Horse Racing Pools and Entertaining Game Themes</b></p>	<p>34 – 37</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by Churchill Downs Racetrack LLC, by and through its wholly owned subsidiary, Derby City Gaming LLC, to approve 8 additional Ainsworth Game Technology entertaining game themes and 3 additional associated historical horse racing pari-mutuel wagering pools. Motion by Vice-Chairman Jones. Second by Commissioner Howard.</p> <p>Commissioner Kling presented the request by Derby City Gaming dated May 29, 2020 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>
<p><b>Tab 11 KRM Wagering LLC Requested Approval for PariMAX Vresion 3.21, 3.22 and 3.23</b></p>	<p>37 – 39</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by KRM Wagering LLC to approve PariMAX Pari-mutuel Wagering System Versions 3.21, 3.22, and 3.23. Motion by Commissioner Simendinger. Second by Commissioner Worley.</p> <p>Commissioner Kling presented the request submitted by KRM Wagering LLC dated May 27, 2020 as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>Chairman Rabinowitz called for a vote to approve the request as presented. Motion carried with no objections or abstentions.</p>
<p><b>Tab 12 Kentucky Downs' Proposed 2020 Race Meet Officials and Date Preference System</b></p>	<p>39 – 41</p>	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by Kentucky Racing Acquisition LLC d/b/a Kentucky Downs to approve the proposed roster of racing officials and date preference system for Kentucky Downs' 2020</p>	<p>Chairman Rabinowitz called for a vote to approve the request as presented. Motion</p>

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	40 – 41	<p>meet. Motion by Vice-Chairman Jones. Second by Commissioner Simendinger.</p> <p>Ms. Borden presented the request submitted by Kentucky Downs dated May 28, 2020 as outlined in the agenda materials. All listed officials are ROAP accredited and have previously performed the duties for which they are listed and will be licensed before the meet opening.</p> <p>Approval was recommended by KHRC staff.</p> <p>In response to an inquiry by Vice-Chairman Jones, Ms. Borden provided an explanation of the date preference system.</p>	carried with no objections or abstentions.
<p><b>Tab 13 Churchill Downs' Proposed 2020 September Derby and Regular September Race Meet Officials and Date Preference System</b></p>	41 – 43	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by Churchill Downs Racetrack LLC to approve the proposed roster of racing officials and date preference system for the September 2020 Derby Meet and for the September 2020 Regular Meet. Motion by Commissioner Hendrickson. Second by Commissioner Simendinger.</p> <p>Ms. Borden presented Churchill Downs' request dated May 28, 2020 as outlined in the agenda materials. All listed officials are ROAP accredited and have previously performed the duties for which they are listed and will be licensed before the meet opening.</p> <p>Approval is recommended by KHRC staff.</p>	Chairman Rabinowitz called for a vote to approve the request as presented. Motion carried with no objections or abstentions.
<p><b>Tab 14 Keeneland's Proposed 2020 July Race Meet Officials and Date Preference System</b></p>	43 – 44	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by Keeneland Association to approve the proposed roster of racing officials and date preference system for the July 2020 meet. Motion by Vice-Chairman Jones. Second by Commissioner Bell.</p>	Chairman Rabinowitz called for a vote to approve the request as presented. Motion carried with no

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		<p>Ms. Borden presented Keeneland’s request dated May 28, 2020 as outlined in the agenda materials. All listed officials are ROAP accredited and have previously performed the duties for which they are listed and will be licensed before the meet opening.</p> <p>Approval is recommended by KHRC staff.</p>	objections or abstentions.
<p><b>Tab 15 The Red Mile’s Proposed 2020 Race Meet Officials</b></p>	44 – 45	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by The Lexington Trots Breeders Association, LLC d/b/a The Red Mile to approve the proposed roster of racing officials for the July 2020 meet. Motion by Commissioner Simendinger. Second by Commissioner O’Connor.</p> <p>Ms. Borden presented The Red Mile’s request dated May 29, 2020 as outlined in the agenda materials. All listed officials are ROAP accredited and have previously performed the duties for which they are listed and will be licensed before the meet opening.</p> <p>Approval is recommended by KHRC staff.</p>	Chairman Rabinowitz called for a vote to approve the request as presented. Motion carried with no objections or abstentions.
N/A	45	<b><u>BREAK TAKEN</u></b>	No action taken.
<p><b>Tab 16 Reports</b></p> <p><b>a. Thoroughbred Rulings</b></p> <p><b>b. Standardbred Rulings</b></p> <p><b>c. Veterinary Division Report</b></p>	<p>45 – 51</p> <p>46</p> <p>46 – 48</p> <p>48 – 49</p>	<p>a. Ms. Borden presented the thoroughbred rulings reports as outlined in the agenda materials.</p> <p>b. Executive Director Guilfoil presented the Standardbred rulings report as outlined in the agenda materials.</p> <p>c. Dr. Howard presented the veterinary division report as outlined in the agenda materials.</p>	No action taken. Informational items only.

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<p>d. Pari-Mutuel Wagering Division Report</p> <p>e. <b>Litigation and Regulations</b></p>	<p>49 – 51</p> <p>51</p>	<p>d. Commissioner Kling presented the pari-mutuel wagering division report as outlined in the agenda materials.</p> <p>e. Litigation and Regulation report is for informational purposes only.</p>	
<p>III. Executive Session</p> <p>During the meeting on June 16, 2020, the Commission will go into closed session pursuant to KRS 61.810(1)(c) to discuss pending litigation</p> <p><b>Final Orders Regarding Lezcano v. KHRC, KHRC-20-TB-001</b></p> <p><b>Final Orders Regarding Cottongim &amp; Rice v. KHRC, KHRC-18-SB-011</b></p> <p><b>McDermott v. KHRC settlement</b></p>	<p>51 – 55</p> <p>51 – 52</p> <p>52</p>	<p>Chairman Rabinowitz requested a motion from the Commission to convene in closed session to discuss proposed or pending litigation against or on behalf of the agency as permitted by KRS Chapter 61.810(1)(c). Motion by Commissioner Kling. Second by Commissioner Simendinger.</p> <p style="text-align: center;"><b><u>EXECUTIVE SESSION</u></b></p> <p>Chairman Rabinowitz requested a motion from the Commission to reconvene in open session. Motion by Commissioner Cauthen. Second by Commissioner Simendinger.</p> <p style="text-align: center;"><b><u>RECONVENED TO OPEN SESSION</u></b></p>	<p>Chairman Rabinowitz called for a vote for the Commission to convene in closed session. Motion carried with no objections or abstentions.</p> <p>Chairman Rabinowitz called for a vote for the Commission to reconvene in open session. Motion carried with no objections or abstentions.</p>
<p>IV. Other Business</p> <p>Final Orders Regarding: <b>Lezcano v. KHRC, KHRC-20-TB-001, Cottongim &amp; Rice v. KHRC, KHRC-18-SB-011, McDermott v. KHRC settlement</b></p>	<p>53 – 54</p>	<p>Upon reconvening in open session, Chairman Rabinowitz requested a motion from the Commission to address the following KRS 13B administrative appeals: <i>Lezcano v. KHRC</i>, #KHRC-20-TB-001; <i>Cottongim &amp; Rice v. KHRC</i>, #KHRC-18-SB-011. Motion by Commissioner Simendinger. Second by Commissioner Bell.</p> <p>Ms. Wolsing presented the proposed final orders of dismissal regarding <i>Lezcano v. KHRC</i> and <i>Cottongim &amp; Rice v. KHRC</i> as outlined in the agenda materials.</p>	<p>Chairman Rabinowitz called for a vote to approve the proposed final orders of dismissal regarding <i>Lezcano v. KHRC</i> and <i>Cottongim &amp; Rice v. KHRC</i> as presented. Motion carried with no</p>

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	54 – 55	<p>Chairman Rabinowitz requested a motion from the Commission to address the request submitted by the KHRC staff to approve the proposed settlement agreement with John P. McDermott, Jr. (McDermott). Motion by Commissioner Chowhan. Second by Vice-Chairman Jones.</p> <p>Ms. Wolsing presented the proposed settlement agreement with McDermott as outlined in the agenda materials.</p> <p>Approval was recommended by KHRC staff.</p>	<p>objections or abstentions.</p> <p>Chairman Rabinowitz called for a vote to approve the proposed settlement agreement with McDermott as presented. Motion carried with no objections or abstentions.</p>
	55 – 56	<p>Chairman Rabinowitz acknowledged and expressed his gratitude to the KHRC Executive Director and staff, KHRC committees, Commissioner Kling, Governor Beshear, and the Public Protection Cabinet for their hard work.</p>	<p>No action taken. Informational item only.</p>
<b>V. Adjournment</b>	56 – 57	<p>Chairman Rabinowitz requested a motion to adjourn. Motion by Commissioner Cauthen. Second by Commissioner Chowhan. Meeting adjourned.</p>	<p>Chairman Rabinowitz called for a vote to adjourn. Motion carried with no objections or abstentions.</p>

**NOTE:** The Agenda materials and any amendments and/or supplements thereto, subject to any applicable exemptions, and the official Transcript are incorporated by reference as if set forth fully herein.